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# SPRINGERVILLE BOARD OF ADJUSTMENTS MEETING MINUTES

Monday, December 12, 2022 at 5:30 pm

**Springerville Town Council Chambers - 418 E. Main St.  
Springerville, AZ 85938**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the Springerville Town Council and to the general public that the Council will hold a meeting open to the public at the Springerville Town Hall, 418 East Main Street, Springerville, Arizona. The Town Council reserves the right to adjourn into Executive Session in accordance with Arizona Revised Statutes Section 38-431.03 (A)(1)(3)(4) and (7) for legal consultation on any of the following agenda items.

**1. CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE:**

Mayor Hanson called the meeting to order at 5:30 p.m. Councilor Henderson led the pledge of allegiance.

**2. ROLL CALL:**

Members of the Board of Adjustments or Legal Counsel that are unable to be present in person at a scheduled Board meeting, may participate in the meeting by telephone or video conference.

Present: Phil Hanson, Mayor; Robert MacKenzie, Vice-Mayor; Richard Davis , Councilor; Douglas Henderson, Councilor; Donald Scott, Councilor

Staff Present: Town Manager Chris Collopy; Town Clerk Kelsi Miller- Telephonically; Town Attorney Tosca Henry- Telephonically; Community Development Director Megan McRae; Finance Director Heidi Wink

## NEW BUSINESS

**3. [PUBLIC HEARING RAOF MANAGEMENT LLC.:](#)**

[Discussion and possible action to enter into a Public Hearing to take Board and Public Comments on an appeal filed by RAOF Management LLC. The administrative decision being appealed is the "Signing AZDHS jurisdictional form stating that the property is in compliance with current zoning. Property has a CUP". Comments will be limited to 3 minutes per person.](#)

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Motioned by Vice-Mayor Robert MacKenzie, seconded by Councilor Richard Davis to go into a public hearing.

AYE: Mayor Phil Hanson, Vice-Mayor Robert MacKenzie, Councilor Richard Davis, Councilor Douglas Henderson, Councilor Donald Scott

**5 - 0 Passed - Unanimously**

Mayor Hanson invited the public that would like to speak on this topic sign the speaker sheet.

Monica Boehning a 40-year resident of Round Valley currently of Eagar and formerly of Springerville explained she has spent 21 years employed in Springerville, kept a post office box here, patronizes numerous businesses here, worships here, and donates to four charitable organizations in Springerville. She greatly cares about her friends, associates, and businesses in Springerville. She would like to make two points: Firstly she commended and applauded Springerville employees for not signing the jurisdictional form for a state license at 334 E Main St, which would result in an untrue document. She feels there are local zoning restrictions for this use and this location is not compliant with the Town Code amended by Ordinance 2022-003 passed on June 15 of this year, as it violates two setback distances: too close to the property line on which a public park resides; and too close to the edge of a residentially zoned property. She added that these two set back distances were already in effect under Ordinance 2011-002 adopted into Town Code back in April 2011. Twice within that prior Ordinance it is specified that a Medical Marijuana Dispensary, with cultivation prohibited, shall not be located within 200 feet of either of these protected uses, as measured from the exterior wall of the building to the property line of the protected use. Thus, that previous dispensary was technically not legal. She feels it is shameful that two past Town Managers checked the box stating that this location is in compliance with zoning restrictions. Either they failed to read their own Town Code or mis-measured both setback distances. The second point she wanted to make was that the previous dispensary operated in that same building was shut down by law enforcement on April 19, 2016, for operating under a non-valid state license, she believes the conditional use permit was revoked. The building has remained unused as a dispensary for over 6 years since, so she feels there is no legally issued permit still connected with that property for such use.

Florencio Lozoya a long time resident of Round Valley and currently of Springerville addressed the Mayor and Council. He asked Council not to make the same mistake again as we are already in enough lawsuits.

Lawrence Hill of Springerville addressed the Mayor and Council stating he moved here 13 years ago and is the president of the Round Valley Animal Rescue board of directors. They operate the RV Animal Rescue thrift store on East Main Street. They are within 300 feet of the proposed dispensary location and they are opposed to having a dispensary that close to them.

Pastor Luke Gallagher with the Life in Christ Church addressed the Mayor and Council. He has been here for 39 years. His wife has a history of dealing with pain. He takes her to Show Low to visit her pain doctor and get her prescriptions filled. He feels that people needing marijuana could also go to Show Low to get what they want. He has checked with his congregation, and he has not heard a single person in favor of marijuana in this town.

Kathy Ware addressed the Mayor and Council and explained that she lives less than a block away from this location. She expressed how nice the Town Hall park is and how close in proximity it is to this property. She pointed out that we all know how windy it is here. The notice posted on the building was taped to the window. The wind blew the notice off, and it was not replaced. She feels the law was not followed.

Motioned by Vice-Mayor Robert MacKenzie, seconded by Councilor Donald Scott to leave the public hearing and enter back into the meeting.

AYE: Mayor Phil Hanson, Vice-Mayor Robert MacKenzie, Councilor Richard Davis, Councilor Douglas Henderson, Councilor Donald Scott

**5 - 0 Passed - Unanimously**

4. [\*\*APPLICATION OF APPEAL: SIGNING AZDHS JURISDICTIONAL FORM STATING THAT THE PROPERTY IS IN COMPLIANCE WITH CURRENT ZONING\*\*](#)
- [a. Presentation of appeal from RAOF Management LLC. Presentation is to be no more than 10 minutes.](#)
- [b. Presentation of appeal from Town of Springerville staff.](#)
- [c. Discussion and possible action by the Board of adjustments on the appeal.](#)

MINUTES:

- a. Presentation of appeal from RAOF Management LLC.  
[Handout from presentation](#)

Mason Cave introduced himself to the Mayor and Council as the owner of RAOF Management. He gave the Board the attached documents to look at while he presents. He expressed that there has been some confusion regarding the property. He explained he purchased 334 E. Main Street in 2019, prior to purchasing the building he asked the Town Manager if this property was zoned for a dispensary location. He knew there had been a dispensary located there. The Town Manager sent him a form saying it was compliant with current zoning. Based on that he purchased the building and gave the timeline. A year later another Town Manager signed another document saying the property is compliant. This building has specific entitlements, AZ Department of Health Services is doing another allocation for medical marijuana dispensaries. He explained that this building fits the parameters to be an automatic license winner. His intent is not to open a marijuana dispensary in Springerville. His intent is to get the license that comes with the building. He is asking that the form the Town signed check the box stating "The location of the proposed marijuana establishment is in compliance with local zoning restrictions related to where a marijuana establishment may be located, subject to the requirements outlined in local zoning ordinances such as a use permit, variance, or other requirements necessary for the proposed marijuana establishment to open and operate at this location". He is not asking for approval to open in Springerville, that would require a conditional use permit and a variance, and he is not asking for that. He gave the example of a similar situation that occurred in Payson. Payson has two licenses available, they are already taken. They still signed their form but explained when you come to town you may not get the permit to open. Mr. Cave asked if the Board had any questions. Councilor Scott wanted to verify that he has no intent to open in Springerville? Mr. Cave said that is correct. He said the property has the correct zoning, he would need a variance to open here and he does not believe Springerville would ever grant him that. He further explained he has a facility in Kingman, with this license he would not have to lease his current license. This is for a huge financial savings for them and the Kingman facility.

MINUTES:

- b. Presentation of appeal from Town of Springerville staff.

Tosca Henry, the Town of Springerville Attorney addressed the Mayor and Council. She explained tonight we are here on a very narrow question as the Council's role as the Board of Adjustments to hear an appeal by Mr. Cave of the decision of the Town Manager acting as the Planning and Zoning Administrator. This is on the local jurisdiction zoning form. There are four brackets that can be selected by the local zoning administrator. The first

states "There are no local zoning restrictions for a proposed marijuana establishment at the above location". The second states "The location of the proposed marijuana establishments is in compliance with local zoning restrictions related to where a marijuana establishment may be located". The third states "The location of the proposed marijuana establishment is in compliance with local zoning restrictions related to where a marijuana establishment may be located, subject to the requirements outlined in local zoning ordinances such as a use permit, variance, or other requirements necessary for the proposed marijuana establishment to open and operate at this location". The fourth box which was checked states "The location of the proposed marijuana establishment is not in compliance with local zoning restrictions related to where a marijuana establishment may be located and/or marijuana establishments are prohibited in the jurisdiction." She further explained we heard from the appellant that this property could be a property for a variance. Tonight we are not looking at an application for a variance. It is outside the scope of review or discussion. However, she reminded the board that the scope of authority is taken directly from state statute and variant applications can not grant a special set of privileges to one property that are inconsistent to the limitations or privileges to the other properties in the area additionally a variance can not be issued for special circumstances that are self-imposed by the property owner. Again, she said we are not looking at a variance application. Statement four on the local jurisdictional form was checked due to the original CUP was obtained because the applicant provided incorrect setback measurements to Planning and Zoning. The code in effect at the time required a setback of 200 feet from a public park. The applicant provided measurements for the Planning and Zoning of 360 feet. The code requirements include "Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, or 200 feet from a place of worship, public park or community center" it also states "This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to the property line of the protected use." (Emphasis added). The actual measurements are about 88 feet and 177 feet, and she showed these measurements. She said we have heard some comments about two former Town Managers signing the forms, but she can not speak to the rationality of those. However, after a review of the file and history, the setback supplied by the former applicant may have been relied upon by the Town. It is not a true statement the property is not in compliance with local zoning restrictions related to the setback, this is why the fourth box was selected.

Motioned by Councilor Douglas Henderson, seconded by Councilor Richard Davis to concur with the decision of staff.

AYE: Mayor Phil Hanson, Vice-Mayor Robert MacKenzie, Councilor Richard Davis, Councilor Douglas Henderson, Councilor Donald Scott

**5 - 0 Passed - Unanimously**

## 5. ADJOURNMENT:

Motioned by Vice-Mayor Robert MacKenzie, seconded by Councilor Donald Scott to adjourn.

AYE: Mayor Phil Hanson, Vice-Mayor Robert MacKenzie, Councilor Richard Davis, Councilor Douglas Henderson, Councilor Donald Scott

**5 - 0 Passed - Unanimously**

Shelly Reidhead, Mayor

ATTEST:

\_\_\_\_\_  
Kelsi Miller, Town Clerk

I hereby certify that the foregoing is a true copy of the minutes of the Springerville Town Council in a Regular Meeting on \_\_\_\_\_. I further certify that the meeting was duly called and a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Kelsi Miller, Town Clerk

Americans with Disabilities Act (A.D.A.): The Town of Springerville intends to comply with A.D.A. If you are physically challenged or disabled and need special accommodations to participate in this town meeting, please contact the Town Clerk at (928) 333-2656 ext. 224 forty-eight (48) hours prior to the meeting to arrange necessary accommodations.

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